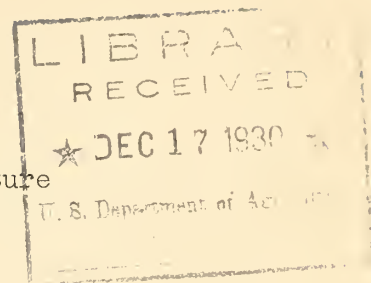


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United States Department of Agriculture
Bureau of Biological Survey
Washington, D. C.



December 10, 1930.

INSTRUCTIONS FOR THE GUIDANCE OF UNITED STATES RESERVATION PROTECTORS

The following instructions are for the guidance of United States Reservation Protectors, Assistant United States Reservation Protectors, and United States Deputy Reservation Protectors in the enforcement of laws for the administration of Federal wild-life reservations and for the protection of animals, birds, vegetation, and government property thereon.

Protection is afforded the wild life on Federal wild-life refuges under Section 145, Title 18, U. S. Code, printed on page 3, and by Section 715-i, Title 16, U. S. Code, Supplement 3, printed on page 4 of the Service and Regulatory Announcements of the Bureau of Biological Survey, No. 73.

These acts protecting wild animals and birds on Federal refuges, together with the regulations thereunder on pages 1, 2, and 3 of the Service and Regulatory Announcements of the Bureau of Biological Survey, No. 73, should be studied carefully by you in order that you may become familiar with their provisions. You should also familiarize yourself with the Migratory Bird Treaty Act and Regulations thereunder in the Service and Regulatory Announcements of the Bureau of Biological Survey, No. 72.

Appointments as reservation protectors, assistant protectors, or deputy protectors, give authority to make arrests without a warrant when an offense is committed in the presence or view of the officer and involve trespass on the reservation, or hunting, killing, or disturbing wild animals or birds, or nests or eggs of birds, or the injury or destruction of property on the refuge or other acts in violation of those protective sections. This authority to arrest is outlined in Section 715-L, by which the police powers, prescribed in Section 5 of the Migratory Bird Treaty Act, for the enforcement of that Act, are also conferred upon reservation protectors for the protection of animals, birds and property on Federal wild-life refuges or reservations. (See page 5 of "S. R. A. - B. S. 73").

Generally, it is desired that arrests shall not be made for violations committed on the reservations if the offender is known to the protector or his identity is established to his satisfaction, either by his hunting license, letters addressed to him, auto permit, car tag numbers, or otherwise, so that the offender can later be served with a Federal warrant.

If the offender is not known and can not establish his identity, then he should be arrested by the protector. Upon arresting an offender it is necessary for the protector immediately to take him before the nearest United States Commissioner and file a sworn complaint of the particular violation charged. After making an arrest, the protector may not release the prisoner but must immediately take him before the Commissioner. If the offender does not waive his right to a hearing on the offense charged, the Commissioner will then set a date for such hearing. The Commissioner will assure the presence of the offender at the hearing by requiring him to give bond. In some instances the Commissioner may commit the offender to jail in the absence of his ability to furnish the required bond, or may release him on his personal recognizance. It will then be necessary for the protector to attend the hearing before the Commissioner and testify to the facts of the violation on which the arrest was made. After hearing the evidence, the Commissioner will determine whether the offender is to be bound over and held for the action of the Federal District Court or be released. It is desired to handle all reservation violations in such way as to avoid making immediate arrest whenever it is possible to prepare affidavits and report the case to the Bureau of Biological Survey and yet be sure that the offender can be found if it is decided to prosecute him.

The transportation and subsistence expenses of the protector and the prisoner in going before the Commissioner are a proper charge against the appropriations of the Biological Survey as well as the expenses of the protector in returning to his headquarters, but not the return expenses of the prisoner. He must bear his own expenses after he has been turned over to the Commissioner. The Bureau will also pay the expenses of a protector incident to attending the hearing before the Commissioner or appearing in the Federal District Court as a witness in a reservation trespass or Migratory Bird Treaty Act case.

When an arrest is made, the protector should seize and hold as evidence any birds or wild animals that the offender may have killed on the reservation or may have in his possession at the time of hunting thereon, together with his hunting license, gun, and ammunition. The protector should give the offender a receipt for the articles seized, which should include a description of the game seized, the number and kind of license, and the number, gauge, and caliber of the gun and ammunition seized.

A release of title signed by the offender should also be taken for the game seized in case facilities are not available for preserving it as evidence, after which it should be presented to the nearest hospital, or charitable institution for use as food by the inmates thereof. The heads and feet of the game so disposed of should be removed and preserved by placing them in a 10% solution of formaldehyde in a glass jar or other suitable container for use as evidence at the trial of the case. Animals too large for this method of preserving evidence may be skinned and the pelts saved. The jar or the skin should be labelled with the date of seizure and the name of the offender.

An offender who commits a violation in the presence or view of the protector may be forthwith arrested or apprehended by continuous pursuit by the officer and arrested without warrant, but if he is interviewed by the officer and allowed to depart, or if the offender succeeds in escaping from the officer, he may not thereafter be arrested without a warrant for that offense. It would then be necessary to file a sworn complaint with a Commissioner and obtain a warrant for the arrest. Protectors may serve warrants that are properly issued and make arrests thereunder.

In case of a violation on the reservation, whether an arrest is made or not, it is desired that the protector promptly report the full facts relative to the offense to the Chief, Biological Survey, U. S. Department of Agriculture, Washington, D. C., on Form Bi-300, "Report of Violations," together with witness affidavits, (Form Bi-199) by the protector and any other witness or witnesses having knowledge of the violation, separate affidavit being made by each witness. When necessary to a full understanding of the facts and circumstances surrounding a violation the protector should accompany the report and affidavits regarding the offense with a letter to the Bureau. The affidavit should set forth the facts that are alleged to constitute the violation and the locality (township, range, and section) in the reservation where the violation took place, if these are determinable by the protector. If a map of the reservation is available, the point at which the violation took place should be indicated thereon and the map should accompany the report to the Bureau. If a map is not available, an effort should be made to sketch the area and show the point at which the offense was committed, its relation to the boundary of the refuge, the location of any refuge signs in the vicinity, and the road or point through which entrance to the reservation was gained.

The protector should always carefully question an offender concerning his knowledge of the boundaries of the refuge, his observation of any signs encountered thereon, and matters of like nature to determine whether he has violated the law innocently or intentionally. Persons not arrested should be required to leave the reservation, or that portion where hunting is unlawful.

The accompanying "Instructions for the Guidance of United States Game Protectors and United States Deputy Game Wardens," Form Bi. 721, used in the enforcement of the Migratory Bird Treaty Act, contain additional detailed information on powers of arrest with and without warrant, filing complaints, and the holding of hearings before United States Commissioners, policies of the Biological Survey in its enforcement work, and the preparation of affidavits and reports. Those instructions should be followed by Reservation Protectors.

United States Deputy Game Wardens have the authority to arrest any person, on or off the Refuge, who, within their presence or view unlawfully kills or possesses a migratory bird protected under the Treaty between the United States and Great Britain, and when an arrest is made the accused should be taken immediately before the nearest United States Commissioner for a hearing. All migratory birds illegally taken should be seized and held as evidence. However, in instances where an offender is well known to the warden or can satisfactorily establish his identity, so that he can thereafter be apprehended on a warrant, there is no need of making an arrest. The same procedure with reference to not making arrests, as outlined for reservation trespass cases, should be followed.

The person of the offender may not be searched by a protector or warden unless and until after the offender has been placed under arrest, with or without a warrant. An offender's car may not be examined on mere suspicion, or for the purpose of ascertaining his guilt, and no search of a car should be made without a search warrant. If the offender consents to or invites an examination of his car, it may then be searched without a warrant, and any contraband game, animals, birds, or parts thereof, and hunting paraphernalia found should be seized. If illegal animals or birds, or parts thereof, are seen in the car by a protector or warden, the offense is then committed in his presence or view, and the offender may be arrested, the car searched, and the contraband seized. Upon making an arrest, with or without a warrant, any game or hunting equipment, or any weapons found on the offender with which he might seriously injure the officer or effect his escape from custody, not only may but should be seized. The illegal animals or birds will be confiscated, but the guns, ammunition, hunting license, etc., will ordinarily be retained as evidence until the case is finally disposed of, but when the offender is known to the protector or warden or satisfactorily establishes his identity, the gun, ammunition, hunting license, etc., may be returned by the protector upon taking a receipt therefor from the violator.

An affidavit in connection with an alleged offense should contain the following information:

- (a) Full name and address of the accused.
- (b) Time when, and place where (township, range, and section, if within reservation) the violation was committed.
- (c) Particular acts that constitute the violation.
- (d) Admissions or statements made by the accused as to the commission of the offense.
- (e). Names and addresses of persons present at the time the violation was committed or when admissions were made.

When a person is apprehended violating either the Migratory Bird Treaty Act or the reservation acts and the violation appears trivial in character, it is suggested that no arrest be made but that his name be obtained and the full facts, accompanied by your own affidavit or that of any witnesses, be furnished the Bureau for its consideration.

If a protector or warden learns of a violation having been committed that was witnessed by persons other than himself he should endeavor to obtain an affidavit from each witness covering essentially the same information as called for above. Such affidavit after having been sworn to should be forwarded to this office, together with any supplementary information that it may be possible to obtain. It is as much the duty of an officer on a reservation to prevent or discourage violations as it is to apprehend an accused or furnish evidence against him after an offense has been committed. If a person about to commit a trespass or kill game unlawfully on the reservation is found, the protector should make an effort to prevent his so doing rather than await completion of the illegal act.

On receipt of an affidavit showing the commission of an offense, the Bureau will, in proper cases, transmit it through the regular channels with recommendation that the case be prosecuted in Federal Court. Protectors and wardens are supplied with blank forms of affidavits, Bi-199, which when filled out in connection with violations, should be sworn to before a United States Commissioner, whose seal should be affixed, or, if convenient, before a United States Game Protector, Reservation Protector, or Assistant Reservation Protector who has been authorized by the Secretary to administer oaths under the Act of 1925 for this purpose. The affidavit should, of course, recite in detail all acts committed by the accused. Any facts not included in the affidavit and of which the Bureau should have knowledge may as hereinbefore directed be transmitted by letter.

W. P. Sheldon

Inclosures

U. S. Game Conservation Officer.

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First issued
Dec. 10, 1930

United States Department of Agriculture
Bureau of Biological Survey
Washington, D. C.

October 15, 1932.

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The transportation and per diem (in lieu of actual) subsistence expenses of the protector and the traveling expenses and actual subsistence expenses of the prisoner, as paid for him by the protector, in going before the Commissioner are a proper charge against the appropriations of the Biological Survey as well as the expenses of the protector in returning to his headquarters, but not the return expenses of the prisoner. He must bear his own expenses after he has been turned over to the Commissioner. The Bureau will also pay the expenses of a protector incident to attending the hearing before the Commissioner or appearing in the Federal District Court as a witness in a reservation trespass or Migratory Bird Treaty Act case.

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